

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

WILLIAM REICHLE,	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 3:04CV555(CFD)
	:	
ROBERT G. HALL, et al.,	:	
Respondents.	:	

RULING ON DEFENDANTS' MOTION FOR REMAND TO STATE COURT

Pending is the defendants' Motion for Remand to State Court. For the following reasons, the motion is GRANTED.

Title 28 U.S.C. § 1446(c)(1) provides that "A notice of removal of a criminal prosecution shall be filed not later than thirty days after the arraignment in State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time." Here, the notice of removal was not filed within thirty days of the defendant's arraignment in State court, and the U.S. district court had not entered an order granting the defendant leave to file the notice at a later time, nor has good cause been demonstrated. Thus, the petitioner's removal was not timely and remand is appropriate.

Moreover, the petitioner has failed to allege appropriate grounds for removal pursuant to 28 U.S.C. § 1443, as he has not asserted any violation of a law providing for specific civil rights stated in terms of racial equality. As the District Court for the Southern District of New York held in Brody v. New York State Division of Parole, No. 89 CV 0987, 1989 WL 87003, at *1 (July 25, 1989 S.D.N.Y.):

This case is not a proper one for removal to federal court. Section 1446 of Title 28 details the procedure by which a defendant may seek to remove a civil action or criminal prosecution from State court. A successful petition for removal, however, must allege a proper basis for removal under sections 1441 through 1445 of Title 28. Section 1441 applies to civil actions only; sections 1442 and 1442a apply only to criminal prosecutions involving federal officials, of which petitioner is not one; section 1445 applies to foreclosures against the United States.

This leaves section 1443(1) as the only possible basis for removal of petitioner's case. That section allows removal of criminal prosecutions commenced in State court against any person who is denied or cannot enforce in the State courts a right under any law providing for the equal civil rights of citizens of the United States. 28 U.S.C. § 1443(1) (1982). In Georgia v. Rachel, 384 U.S. 791 (1966), the Court held that the right allegedly denied must arise under a federal law “providing for specific civil rights stated in terms of racial equality.” Rachel, 384 U.S. at 795.

See also Negron v. New York, No. 02-CV-1688, 2002 WL 1268001, at * 1 (Apr. 1, 2002 E.D.N.Y.) (“The Supreme Court has construed the phrase ‘any law providing for specific civil rights’ in § 1443(1) to mean ‘any law providing for specific civil rights stated in terms of racial equality.’”) (quoting Georgia v. Rachel, 384 U.S. 780, 792 (1966)); New York v. Jenkins, 422 F. supp. 412, 414 (S.D.N.Y. 1976) (Petitioner’s averments clearly do not qualify this case for removal under the statute. No specific civil rights protecting racial equality are implicated.”); Erwin Chemerinsky, Federal Jurisdiction §11.5.2 (4th ed.2003) (discussing narrow construction of removal authority under 28 U.S.C. § 1443).

Therefore, as the defendant’s attempted removal was untimely and this is not the type of case that can be removed to federal court, the defendants’ motion to remand is GRANTED.

SO ORDERED this 24th day of June 2004, at Hartford, Connecticut.

/s/ CFD
CHRISTOPHER F. DRONEY
UNITED STATES DISTRICT JUDGE